



UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of :
Cho et al. :
Application No. 10/712,676 : ON PETITION
Filed: 16 July, 2004 :
Attorney Docket No. 2080-3-195 :
:

This is a decision in reference to the petition filed on 31 July, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application was held abandoned on 8 December, 2005, for failure to submit a timely response to the non-final Office action requiring restriction and/or election mailed on 7 November, 2005, which set a one (1)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 May, 2006.

Petitioners assert that the Office action mailed on 7 November, 2005, was not timely received because it was not mailed to the correct address. Specifically, petitioners assert that it was mailed to counsel's previous address of 221 North Figueroa St, 11th Floor, Los Angeles, CA 90012 ("the North Figueroa address"), rather than the then-current correspondence address of 801 South Figueroa St, 14th Floor, Los Angeles, CA 90017 ("the South Figueroa address").

Petitioners further aver that the application papers as filed listed the South Figueroa address as the correspondence address.

A review of the record reveals that on 13 November, 2003, the instant application was filed, with the transmittal letter listing the South Figueroa address. Additionally, a declaration under 37 CFR 1.63 was filed, appointing Jonathan Y. Kang, Richard

K. Yoon, Edward Gray, David N. Makous, and John S. Christopher as attorneys of record and stating that all correspondence should be addressed to the North Figueroa address.

Additionally, on 13 November, 2003, petitioners filed an Associate Power of Attorney appointing F. Jason Far-Hadian and Amit Sheth as associate attorneys, signed by attorney Kang, and listing the South Figueroa address as the correspondence address.

MPEP 403.01 states:

Where the attorneys bear relation of principal attorney and associate attorney, the correspondence will be had with the associate attorney unless the principal attorney directs otherwise. *Ex parte Eggan*, 1911 C.D. 213, 172 O.G. 1091 (Comm'r Pat. 1911). The associate attorney may specify or change the correspondence address to which communications about the application are to be directed. Associate powers of attorney are not accepted after June 25, 2004, but any associate power of attorney filed before June 25, 2004 will continue to have effect.

As the Associate Power of Attorney was filed prior to 25 June, 2004, and directs the Office to send correspondence to the South Figueroa address, the Office erred in sending the Office action to the North Figueroa address.

As such, the showing of record is that there was an irregularity in the mailing of the Office action mailed on 7 November, 2005, in that said Office communication was not mailed to the proper address.

The Office apologizes for any inconvenience to petitioner.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As petitioner has filed a response to the Office action mailed on 7 November, 2005, with the present petition, remailing of the Office action is unnecessary. Rather, the response filed with the petition is being treated as timely filed.

The application is being referred to Technology Center Art Unit 3753 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

A handwritten signature in cursive script, appearing to read "D. Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions